

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA
LAS VEGAS DIVISION

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FILED
2012 JUN 14 P 12:20

UNITED STATES OF AMERICA C
Plaintiff/Respondent C Case No:2:10-cr-00520-RJJ
V. C 2:09-cr-00078-JCM-RJJ-2
Shaw Talbot Rice C
Defendant/Petitioner C copyrighted 2012
C

Petitioner's Motion to Dismiss the Pleadings and Indictment
Issued by the Government with Prejudice for Lack of Standing and
No Real Party In Interest

Comes now Shawn Talbot Rice, in propria person, and would
show this Honorable Court the following, to wit;

On 3/3/09 Petitioner was indicted, charged with one count
of conspiracy to commit money laundering, 18 USC section 6156(h)
and 2 counts of money laundering, 128 USC section 1656(a) (3)A
and Aiding and Abetting.

A warrant was returned executed on 3/6/09.

Petitioner is currently pretrial.

Petitioner was charged by UNITED STATES OF AMERICA [sic],
which, accordingly is not a proper party and has no standing to
appear. UNITED STATES OF AMERICA is a third party enterloper.

While Congress has conferred legal standing on the "United

1 States" to sue and be sued at 28 USC sections 1345 and 1346,
2 respectively, no Act of Congress has conferred comparable legal
3 standing upon the entity called 'UNITED STATES OF AMERICA
4 [sic]". Nowhere does Title 28 USC section 1346 provide for
5 "UNITED STATES OF AMERICA" [sic], to appear on behalf of the
6 United States federal government.
7

8 "United States" appears roughly 23,870 times in the U.S.
9 Code while "United States of America" appears roughly 830 times
10 (including titles, notes and references). In no instance is
11 "United States of America" explicitly defined as synonymous with
12 the "United States". In fact, it is explicitly distinguished
13 from the "United States" and the federal government in several
14 locations.
15

16 The term "United States of America" appears in the Front
17 Matter of the U.S. Code, in Articles of Confederation, 1777
18 A.D., where "United States of America" was clearly defined as a
19 "Stile" to describe the Union formed by those Articles:
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21 "Articles of Confederation and perpetual Union between the
22 States of New Hampshire, Massachusetts bay, Rhode Island and
23 Providence Plantations, Connecticut, New York, New Jersey,
24 Pennsylvania, Delaware, Maryland, Virginia, North Carolina,
25 South Carolina and Georgia."

26 "Article I. The Stile of this Confederacy shall be the
27 United States of America."

1 "Article II. Each state retains its sovereignty, freedom,
2 and independence, and every power, jurisdiction, and right,
3 which is not by this Confederation expressly delegated to the
4 United States, in Congress assembled."

5 Articles of Confederation, 1771 A.D. [Underlines added]

6 When the original thirteen (13) States formed a Union of
7 several (plural) States, they called the union "The United
8 States of America". Article II went on to distinguish "The
9 United States of America" from "United States", declaring that
10 each state retained rights not expressly delegated by the
11 Confederation to the federal government, which it clearly
12 identified as the "United States".
13

14 In harmony with the Founder's original intent, the "United
15 States of America" still means the union of, now, fifty (50)
16 States, while "United States" still means the federal
17 government. This could not be changed by any legislation.
18

19 In *Eisner v. Macomber*, 252 US 189 (1920), the US Supreme
20 Court told Congress that it was barred from re-defining any
21 terms that are used in the federal Constitution, from which it
22 derives its power to legislate. "United States" occurs in
23 several places, because it is central to the entire purpose of
24 that Constitution. Any legislative attempt to re-define "United
25 States" to mean "UNITED STATES OF AMERICA" [sic], or vice versa,
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1 would necessarily be unconstitutional as it violates the Eisner
2 Prohibition.

3 "United States" is the term that is used consistently
4 throughout Title 28 to refer to the federal government domiciled
5 in the District of Columbia. There is only one place in all of
6 title 28 where the term "United States of America" is used, and
7 there it is used to correct contradistinction to "United
8 States", see 28 USC section 1746(1).

9
10 Because Title 28 contains statutes which govern all federal
11 courts, the consistent use of "United States" and never "UNITED
12 STATES OF AMERICA" [sic] when referring to the federal
13 government, carries enormous weight. Title 28 is the latest
14 authority on this subject, as revised, codified and enacted into
15 positive law on June 25, 1948. Moreover, the Supremacy Clause
16 elevates Title 28 to the status of supreme law of the land. No
17 amount of D.O.J. shenanigans, case law, or bench dictum can
18 trump Supreme Law.

19
20 "This Constitution, and the Laws of the United States which
21 shall be made in pursuance thereof; and all treaties made, or
22 which shall be made in pursuance thereof; and all treaties made,
23 or which shall be made, under the authority of the United
24 States, shall be the supreme law of the land; and the judges in
25 every state shall be bound thereby, anything in the constitution
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1 or laws of any state to the contrary notwithstanding."

2 Article VI, Clause 2, U.S. Constitution [Underline added].

3 It is especially significant that when the federal
4 government appears before the U.S. Supreme Court, it does so as
5 'UNITED STATES and not the aberration 'UNITED STATES OF AMERICA"
6 [sic].
7

8 If the prosecutor in this case is, in fact, appearing on
9 behalf of the federal government, he should be appearing for the
10 "UNITED STATES" and not "UNITED STATES OF AMERICA" [sic]. But,
11 because the prosecutor, is, instead, appearing for 'UNITED
12 STATES OF AMERICA" [sic], which is not a real party in this
13 instant case, the prosecutor's Notice of Appearance and
14 subsequent filings must be stricken.
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16 Making matters more confusing, "UNITED STATES OF AMERICA"
17 was chartered twice in the State of Delaware (since revoked) and
18 has since appeared in various permutations accompanied by "LLC",
19 "INC", or "CORP", etc., in other States across the Union. For
20 example, Washington Secretary of State has "UNITED STATES OF
21 AMERICA". "Certificate[s] of No Registration" are available for
22 the Court.
23

24 It would appear that the prosecutor is attempting to
25 represent a foreign entity. Stranger still, it would appear
26 that the prosecutor is representing an unregistered foreign
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1 entity, without any powers to do so. Compare 28 U.S.C. section
2 547, which confers powers of attorney to represent the "United
3 States " but nowhere 'UNITED STATES OF AMERICA" [sic]. It is
4 not clear why the U.S. Department of Justice would not wish to
5 invoke the jurisdiction of the "United States", which is the
6 only jurisdiction Congress has conferred upon it.
7

8 Again, it is significant that when the federal government
9 appears before the U.S. Supreme Court, it does so as 'UNITED
10 STATES" AND NOT "UNITED STATES OF AMERICA" [sic]. We ask then,
11 why did it not do so in this case.
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13 We see in Article III of the U.S. Constitution, that the
14 judicial power of the "United States" arises when the "United
15 States " is a party.
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17 "The Judicial Power shall extend to all Cases, in Law and
18 Equity, arising under this Constitution, the Laws of the United
19 States, and Treaties made, or which shall be made, under their
20 Authority - to all Cases affecting Ambassadors, other public
21 Ministers and Consuls; -- to all Cases of admiralty and maritime
22 jurisdiction; -- to Controversies to which the United States
23 shall be a Party;"
24

25 Article III, Section 2 of the U.S. Constitution.

26 "Party" is defined in Bouvier's Law Dictionary to include
27 both Plaintiff and Defendant.

1 By substituting 'UNITED STATES OF AMERICA' [sic] for
2 "United States", particularly in a UNITED STATES DISTRICT COURT,
3 it would appear the U.S. Department of Justice seeks to avoid
4 invoking the judicial power of a constitutional court (like that
5 of a "district court of the United States"" or the U.S. Supreme
6 Court) in favor of a court operating in legislative mode, where
7 fundamental Rights are not guaranteed, but merely privileges
8 granted (or denied) at the discretion of legislative tribunals.
9 See *American Insurance v. 356 Bales of Cotton*, 1 Pet. 511, 7
10 L.Ed. 242 (1828) (C.J. Marshall's seminal ruling, still
11 standing); and *Balzac v. Porto Rico*, 258 U.S. 298, 312 (1922)
12 (The USDC is not a true United States court established under
13 Article III.).

14 This tainting of the judicial machinery and
15 misrepresentation by the U.S. Department of Justice is not only
16 a fraud upon the court but a fraud upon We the People - and a
17 fraud upon this Petitioner who believed the Respondent in this
18 instant case was a proper party.

19 The prosecutor claims to be a "US" Attorney, not a "USA"
20 Attorney and, as explained, "United States" and "UNITED STATES
21 OF AMERICA" [sic] are not, in fact, one and the same. The
22 prosecutor does not enjoy general Powers of Attorneys to
23 represent a Washington, Delaware, UK, or any other foreign

1 entity registered or unregistered, in federal court; Congress
2 never appropriated funds for, or conferred any such Powers of
3 Attorney upon the prosecutor or the U.S. Department of Justice.

4
5 Accordingly, it is willful misrepresentation for a U.S.
6 Attorney to attempt to appear in any State or federal court on
7 behalf of "UNITED STATES OF AMERICA" [sic]. Misrepresentation
8 is actionable under the McDade Act at 28 U.S.C. section 530(B)
9 (Ethical standards for attorneys for the government).

10
11 This Court may not arbitrarily dismiss as "frivolous"
12 Petitioner's assertion that "UNITED STATES OF AMERICA" [sic] was
13 never the valid Plaintiff in these proceedings and as such, is
14 not a party with standing. Rather, the "UNITED STATES OF
15 AMERICA" [sic], of its own accord, must demonstrate its own
16 standing, which it may do by a good-faith showing of any one or
17 more of the following:

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19 1. Any legal and relevant charter plainly showing "United States" and "UNITED
20 STATES OF AMERICA" [sic] are legally one and the same (i.e. United States – or
21 United States federal government dba UNITED STATES OF AMERICA);
- 22 2. Any relevant U.S. Code where "UNITED STATES OF AMERICA" [sic] is explicitly
23 defined as synonymous with the United States federal government for the express
24 purpose of appearing in federal court;
- 25 3. Any evidence the *Eisner* Prohibition does not prohibit the re-defining of terms like
26 "United States" and "United States of America" as originally used by the Founders
27 in the Constitution;
4. Any evidence "United States of America", as used in 28 U.S.C. section 1746, is not
in contradistinction to "United States";

1 5. Any Act of Congress explicitly conferring equal legal standing upon "United States"
2 and "UNITED STATES OF AMERICA" [sic]; or

3 6. Any evidence Congress has conferred general Powers of Attorney upon the
4 prosecutor to represent foreign entity, "UNITED STATES OF AMERICA" [sic], in
5 federal court.

6 "UNITED STATES OF AMERICA" [sic], as appearing in this
7 instant case, is nothing more than an
8 uninvited third party interloper who is not a proper party, has
9 no standing, and was never authorized in this action to begin
10 with.

11 Finally, after the prosecutor filed a Notice of Appearance
12 on behalf of the "UNITED STATES OF AMERICA" [sic], it would
13 appear the prosecutor has not yet secured proper admission into
14 the district pursuant to Local Rules. As of this date, no
15 proper petition for admission appears on the record. See
16 *Pumphrey v. K.W. Thomp. Tool Co.*, 62 F.3d 1128 (9th Cir. 1995).

17 Therefore, because "UNITED STATES OF AMERICA" [sic] is not
18 a proper party with standing, and because standing can be raised
19 by any party at any time, and because the United States has not
20 appeared to date, and because certain actions by prosecutors may
21 have constituted a fraud upon the court and/or willful
22 subversion of the U.S. Constitution contrary to mandatory Oaths
23 of Office (See 28 U.S.C. section 544 and 5 U.S.C. sections 3331-
24 3333, Standard Form 61 Appointment Affidavits), it is prayed
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1 that this Honorable Court strike any Indictment and charge,
2 strike any Notice of Appearance by Prosecutors, as well as any
3 filings by the government, call for the immediate cessation of
4 D.O.J.'s malicious and bad-faith prosecution, and enter a
5 Default Judgment in favor of Petitioner in accordance with this
6 Motion and declare Petitioner actually innocent of any alleged
7 crimes.
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9 Dated this 5th day of June, 2012.
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12 Respectfully submitted,
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14 Shawn Talbot Rice
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16 ~~Sean~~ Talbot Rice
17 Shawn
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